

# **Draft Strawman Rules (4/21/2022)**

## **TITLE 18. ENVIRONMENTAL QUALITY**

### **CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY – AIR POLLUTION CONTROL**

#### **ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS**

##### **PART D. ARIZONA REGIONAL HAZE CLASS I AREAS**

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#### **ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS**

##### **PART D. ARIZONA REGIONAL HAZE CLASS I AREAS**

#### **R18-2-D1301. Definitions for R18-2-D1302 and R18-2-D1303**

The following definitions apply to R18-2-D1302 and R18-2-D1303:

1. “Average Daily Vehicle Trips (ADT)” means the average number of vehicles that cross a given point on a road over a 24-hour period.
2. “Buffer areas” means the following townships (except those areas in Indian Country as defined by 18 U.S.C. 1151):
  - a. In Cochise County; [NOTE: the final rule will list the townships to which the rules apply in each county]
  - b. In Graham County;
  - c. In Gila County;
  - d. In Maricopa County;
  - e. In Pima County;
  - f. In Pinal County;
3. "Bulk material" means any material, including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, trash, cinders, pumice, saw dust, and dry concrete, which are capable of producing fugitive dust.
4. “Class I area” means any international park, national wilderness area and national memorial park that exceeds 5,000 acres, or any national park that exceeds 6,000 acres, which are designated under the Clean Air Act as mandatory federal Class I areas in order to preserve, protect and enhance air quality. The full list of Arizona federal class I areas as of the effective date of this Part is defined at 40 CFR 81.403.

5. “Chemical stabilizer/dust suppressant” means hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U. S. Environmental Protection Agency (EPA), the Arizona Department of Environmental Quality (ADEQ), or any applicable law or regulation, as a treatment material for reducing fugitive dust emissions.
6. “Construction” means building, maintaining or modifying a capital improvement resting upon, connected to or buried in the earth. Construction includes, but is not limited to, vertical construction, installing underground utilities, installing above-ground utilities, and building physical infrastructure including roads, flood structures, drainage works and irrigation works.
7. “Construction site” means any property upon which dust generating operations occur during construction.
8. “Clean gravel” means a mineral or rock aggregate ranging in size from 0.25 to 3 inches on its longest dimension that is either natural or the product of a mineral processing operation and contains no more than 6% silt by weight.
9. “Dust generating operations” means any activity capable of generating fugitive dust, including but not limited to:
  - a) Earthmoving activities;
  - b) Land clean-up, leveling, back filling;
  - c) Drilling;
  - d) Construction;
  - e) Demolition;
  - f) Bulk material handling, storage or transporting operations;
  - g) Operation of motorized machinery used in Construction;
  - h) Establishing or using unpaved parking lots, haul/access roads within a construction site; or
  - i) Installing initial landscapes using mechanized equipment.
10. "Earthmoving activity" means any land clearing, land cutting and filling operations, blasting, trenching, road construction, grading, landscaping, landfill operations, weed abatement through discing, soil mulching, or any other activity associated with land development where the objective is to disturb the surface of the earth.
11. “Nonresidential construction site” means a construction site where industrial, commercial, or institutional construction is taking place, including roads associated with the project and excluding single family or multifamily home construction.
12. "Owner or operator" means any person including, but not limited to, the property owner, lessee, developer, responsible official, general or prime contractor, supervisor, management company, or any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this rule.

13. “Paved public road” means a publicly owned paved roadway, owned by federal, state, county, municipal, or other government or quasi-governmental agencies as evidenced by a formal acceptance by the state or a political subdivision of the state of either:
  - a. An on-going maintenance obligation for the roadway; or
  - b. A title or easement for the roadway.
14. “Pave/Pavement” means the application and maintenance of asphalt, concrete, or other similar material to a roadway surface, such as asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
15. “Trackout” means any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, or equipment (including tires) and that have fallen onto a paved roadway.
16. “Unpaved access point” means a location where an “unpaved public road” intersects with, adjoins, or otherwise connects to a “paved public road.”
17. “Unpaved haul/access road” means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.
18. “Unpaved parking and staging area” means any nonresidential area that is not covered by asphalt, recycled asphalt, asphaltic concrete, concrete, or any other pavement that is used for fueling and servicing; shipping, receiving and transfer; or parking or storing equipment, haul trucks, vehicles, and any conveyances, including unpaved access routes to such an area.
19. “Unpaved public road” means any unsealed or unpaved road, equipment path, or travel way that is not covered or stabilized by typical roadway materials and owned by federal, state, county, municipal, or other governmental or quasi-governmental agencies.

**R18-2-D1302. Fugitive Dust Emissions from Nonresidential Construction**

- A. Applicability.
  1. This Section applies to the owner or operator of a nonresidential construction site within the buffer areas, as defined in R18-2-D1301(2), of the Chiricahua National Monument and Wilderness Area, Galiuro Wilderness Area, Saguaro Wilderness Area, and Superstition Wilderness Area Class I Areas. [Areas within approximately 50 km of the four Class I areas]
  2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on the later of the effective date of the Administrator’s action approving it as part of the state implementation plan or [insert date].
- B. Exemptions.
  1. This Section shall not apply to:
    - a. Residential construction;
    - b. Roadway construction not associated with a nonresidential construction site;
    - c. Areas subject to Maricopa County Air Pollution Control Regulations, Rule 310

Fugitive Dust From Dust-Generating Operations (as amended January 27, 2010);

- d. Areas subject to Pinal County Air Quality Control District Code of Regulations, Chapter 4, Article 3. Construction Sites - Fugitive Dust (as amended October 28, 2015) and Chapter 4, Article 7. Construction Sites in Nonattainment Areas – Fugitive Dust (as amended June 3, 2009).
2. The provisions of subsection (D)(1) shall not apply to parking and staging areas that total less than 1 acre at any nonresidential construction site.
3. The provisions of subsection (D)(2) shall not apply to nonresidential construction sites less than 10 acres.

C. Notification.

1. The owner or operator of a nonresidential construction site shall notify the Director [how long?] before beginning any construction activity by completing an ADEQ-approved notification form.
2. Notification under subsection (C)(1) shall include:
  - a. Applicant name, organization/company, address, phone number, and email address;
  - b. Location of the construction site (street address or GPS coordinates of the center of the site);
  - c. The total area of the property upon which construction activities occur and an estimate of the area expected to be used for parking and staging activities;
  - d. Expected start and completion date of any construction activities;
  - e. An indication of control measures selected from subsections (D)(1) and (D)(2).
3. The owner or operator shall notify the director [online/in writing?] as soon as practicable, but no later than 30 days, of any changes to the start or completion dates of construction activities.

D. Standards.

1. Unpaved parking and staging areas. The owner or operator of a nonresidential construction site with unpaved parking and staging areas that have a cumulative area of 1 acre or more shall implement and use at least one of the following measures to reduce emissions of fugitive dust:
  - a. Apply and maintain chemical stabilizers/dust suppressants;
  - b. Apply and maintain clean gravel to a depth of 2 inches;
  - c. Install and maintain pavement.Application and maintenance of chemical stabilizers/dust suppressants under subsection (D)(1)(a) shall be made in accordance with the manufacturer's recommendation.
2. Speed limit. To reduce emissions of fugitive dust, the owner or operator of a nonresidential construction site 10 acres or more shall restrict maximum vehicular speeds to 15 miles per hour on all traffic areas of the site including unpaved easements, right of way, unpaved haul/access roads and parking areas by installing speed limit signs at each entrance and along haul/access roads, with a minimum of four signs per site.

- E. Monitoring.
1. To demonstrate compliance with subsection (D)(1), the owner or operator shall perform inspections on each day dust-generating operations are conducted of all parking and staging areas, including routinely traveled surfaces as evidenced by tire tracks, to ensure continued implementation of required control measures.
  2. To demonstrate compliance with subsection (D)(2), the owner or operator shall perform inspections on each day dust-generating operations are conducted of vehicular traffic at the construction site to ensure continued implementation of required control measures.
- F. Recordkeeping and Reporting.
1. The owner or operator shall maintain the following records:
    - a. Records of control measures implemented and maintained as required by subsection D above including:
      - i. The types of surface treatments, extent of coverage, and frequency/date of application/installation;
      - ii. Copies of manufacturer specifications for chemical stabilizers/dust suppressants, if applicable; and
      - iv. An indication of the number and placement of speed limit signs.
    - b. Written records of self-inspection required by subsections (E)(1) and (E)(2) on each day dust-generating operations are conducted. Inspection records shall, at a minimum, include:
      - i. Identification of inspector;
      - ii. Inspection date and time;
      - iii. General findings of inspection;
      - iv. An indication of gravel coverage and measurements of depth, if applicable;
      - v. A description of how vehicle speed limits are restricted and enforced, such as, speed checks with radar guns, or other effective means; and
      - vi. An indication of any corrective action or preventive measures taken, such as, application of additional dust suppressants or gravel and maintenance or replacement of speed limit signs.
  2. Records required by subsections (F)(1)(a) and (F)(1)(b) shall be kept onsite and made available for review by the Director within two business days of notice to the owner or operator. For onsite requests by the Director, the owner or operator shall provide such records without delay.
  3. The owner or operator shall retain all records, including supporting documentation, required by this Section for 5 years from the date of such record.

**R18-2-D1303. Fugitive Dust Emissions from Paved Roads**

- A. Applicability.

1. This Section applies to the owner or operator of a paved [or unpaved?] road within the buffer areas, as defined in R18-2-D1301(2), of the Chiricahua National Monument and Wilderness Area, Galiuro Wilderness Area, Saguaro Wilderness Area, and Superstition Wilderness Area Class I Areas. [Areas within approximately 50 km of the four Class I areas]
  2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or [insert date].
- B. Exemptions.
1. This Section shall not apply to wholly private paved or unpaved roads with no public access.
  2. The provisions of subsection (C)(1) concerning stabilization of unpaved access points shall not apply to unpaved access points connecting to paved roads with less than 2,700 ADT.
  3. The provisions of subsection (C)(1) shall not apply to existing unpaved access points except for construction of new unpaved access points or projects where paving operations are an integral part of new construction, reconstruction, or a pavement rehabilitation project on the paved public road.
  4. The provisions of subsection (C)(2) shall not apply to areas subject to Pinal County Air Quality Control District Code of Regulations, Chapter 4, Article 1. West Pinal PM10 Moderate Nonattainment Area Fugitive Dust (as amended October 28, 2015). [Others?]
- C. Standards.
1. Stabilization of unpaved access points. The owner or operator of a public roadway shall stabilize unpaved access points within the buffer areas by implementing and using at least one of the following measures to [reduce trackout onto the paved roadway]:
    - a. Apply and maintain chemical stabilizers/dust suppressants;
    - b. Apply and maintain clean gravel to a depth of 2 inches;
    - c. Install and maintain pavement.

Control measures under subsections (C)(1)(a) through (C)(1)(c) shall be applied for the full width of the roadway and [up to the right-of-way limits of the paved road or] up to 100 ft. from the centerline of the adjoining paved road[, whichever is less]. Application and maintenance of chemical stabilizers/dust suppressants under subsection (C)(1)(a) shall be made in accordance with the manufacturer's recommendation.
  2. Cleanup of trackout, spillage, and erosion-caused deposition of any bulk material on paved public roadways. The owner or operator of the property within the buffer areas from which the trackout, spillage, or erosion caused deposition came shall, upon discovery of mud/dirt that extends 50 feet or more from the nearest unpaved surface exit onto the paved public roadway:
    - a. Within 24 hours of discovery, remove the bulk material from the paved public roadway with one of the following control measures:
      - i. Manual sweeping and pickup; or
      - ii. Operating a rotary brush or broom accompanied or preceded by sufficient

wetting to limit fugitive dust emissions; or

iii. Operating a street sweeper; or

iv. Flushing with water, if curb and gutters are not present and where the use of water will not result in a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.

b. During removal of bulk material, do so in a manner that does not cause another source of fugitive dust.

c. If needed, restrict vehicles from traveling over the bulk material until such time as the material can be removed from the travel lanes of the paved public roadway pursuant to subsection (C)(2)(a). In the event unsafe travel conditions would result from restricting traffic and removal of such material isn't possible within 72 hours due to a weekend or holiday condition, the provisions of subsection (C)(2)(a) may be extended upon notification to and approval of the Director.

[d. The removal of carryout and trackout from paved public roads does not exempt an owner/operator from obtaining state or local agency permits which may be required for the cleanup of bulk material on paved public roads.]

D. Recordkeeping and Reporting.

1. The owner or operator shall maintain records of control measures implemented and maintained as required by subsection (C) above including the date and time of application/installation, and copies of manufacturer specifications for chemical stabilizers/dust suppressants, if applicable.

2. Records required by subsection (D)(1) shall be made available for review by the Director within two business days of notice to the owner or operator.

3. The owner or operator shall retain all records, including supporting documentation, required by this Section for 5 years from the date of such record.

4. Initial inventory. Within one year from the effective date of this rule, each city, county, or state agency with primary responsibility for any existing paved public roadway with 2,700 ADT or greater shall provide the Director with a list of all unpaved access points under its jurisdiction. Evaluation of ADT shall be based on actual collected ADT data if available, or estimated based on state roadway functional classification designations or other similar means. The evaluation method shall be reported in the initial inventory.

5. Annual report. By April 1 of each year the owner or operator of a public roadway shall submit to the Director a report containing the following information:

a. Location of any unpaved access points to which control measures were applied during the previous calendar year according to subsection (C)(1) (street address or GPS coordinates);

b. Actual or estimated ADT of the intersecting paved public roadway portion of each access

point and the evaluation method used;

- c. Indication of the control measure applied/installed according to subsection (C)(1);
- d. Indication of the length and width of the unpaved roadway upon which control measures were applied/installed according to subsection (C)(1);
- d. The start and completion date of initial application/installation of controls according to subsection (C)(1); and
- e. An update to the list of unpaved access points required under subsection (D)(4) to include any new access points that become subject to this rule due to changes in ADT.